

REMARKS

Status of the Claims

Claims 1-9 are currently pending in the application and subject to a Restriction Requirement. (*See*, Office Communication of May 17, 2006, at page 2, hereinafter, "Office Communication"). Applicant traverses the Restriction Requirement as set forth herein. Reconsideration is respectfully requested.

Lack of Unity of Invention

Claims 1-9 are subject to a Lack of Unity of Invention Requirement under 35 U.S.C. §§ 121 and 372 for reciting inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. (*See*, Office Communication, at page 2). Applicant traverses as hereinafter set forth.

For the purpose of continuing prosecution of the present application, Applicants elect, with traverse, Group II, claims 2-7, drawn to a DNA.

According to MPEP § 1893.03(d), the Examiner is respectfully reminded that if the Examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable, the nonelected invention(s) should be considered for rejoinder. Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be rejoined. (*See*, MPEP §

821.04 and § 821.04(a)). Any nonelected processes of making and/or using an allowable product should be considered for rejoinder following the practice set forth in MPEP § 821.04(b).

Additionally, according to MPEP § 803, if the search and examination of an entire application can be made without a serious burden, the Examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions. As evidence of the undue burden, the Examiner has not listed any classes/subclasses to be searched for each of Groups I-III. Clearly, a search of all pertinent classes and subclasses would not amount to an undue burden on the Examiner because the protein sequence and DNA sequences are related and because modern molecular biology searching software allows quick and efficient searching of such sequences.

As such, Applicant respectfully requests that the Examiner rejoins at least Groups I and II. Reconsideration and withdrawal of the Restriction Requirement of claims 1-9 are respectfully requested.

CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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